

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.04.2019

CORAM

THE HONOURABLE Mr. JUSTICE M.SUNDAR

O.P.No.182 of 2013
and O.A.Nos.951, 952 & 953 of 2015
and A.No.5861 of 2015

1.R.Dwarkanath
2.R.Aswinkumar
3.Sri Prabaa
4.Sri Rekha

... Petitioners

Vs.

1.M/s.Haven Foundation Pvt. Ltd.,
Rep. by its Chief Executive Officer
D.R.J.Kothandaraman,
No.25/1, Thomas Nagar,
Little Mount, Saidapet,
Chennai-15.

2.R.Suganthi

3.The Arbitral Tribunal,
Hon'ble Mr. Justice V.Kanakaraj
Former Judge, Madras High Court,
No.33, Chokalingam Nagar,
Behind DMS Office,
Gopalapuram, Chennai-86.

... Respondents

Original Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996, to set aside the award dated 11.01.2013 passed by the arbitral tribunal/3rd respondent herein and allow the claim of the petitioners herein with costs of this petition.

For Petitioners : Mr.M.L.Ramesh
For Respondents : Mr.P.Raja for R-1
: Ms.S.Jayakumari for R-2

ORDER

This 'Original Petition' ('OP' for brevity) is listed today under the caption 'FOR REPORTING SETTLEMENT'.

2.Learned counsel on both sides before this Court, invite the attention of this Court to earlier orders/proceedings of this Court dated 24.01.2019 which read as follows :

'It is represented by the learned counsel for the petitioner that without passing an order under Section 13 of the Arbitration and Conciliation Act, 1996, the Arbitrator has proceeded to pass a final Award. He further submitted that in spite of the interim order of this Court, the property has been sold by the respondents to the third parties and they are yet to be made as parties in the present Original Petition.'

2.In the meantime, learned counsel appearing for the respondents submitted that attempts have been made for arriving at a settlement, but, unfortunately, it did not go through for one reason or the other. He suggested that if the matter is posted before a Retired Judge of this Court for mediation, there could be a possibility of settlement and that the respondents would meet out the expenses towards the same and he also pleaded that time limit may be fixed for completing the mediation process. Learned

counsel further submitted that in case, no settlement is arrived at, he is willing to argue the matter.

3.In reply, learned counsel for the petitioner submitted that he has no objection for referring the matter to mediation before a Retired Judge of this Court, however, as the Award is prima facie illegal, in terms of Section 13 of the Act, if the matter is taken up and contested, an opportunity of further hearing has to be given.

4.In the present case, the purchasers of the property are also before this Court seeking to implead themselves as parties to the present Original Petition and this Court is of the view that they can be heard only after the contesting parties put forward their case before this Court and if no settlement is arrived at between the parties.

5.At the request of the learned counsel for the parties, Hon'ble Mr.Justice K.Chandru, Retired Judge of this Court, is requested to mediate and try to bring about a settlement in this matter, before 28.02.2019 and a sum of Rs.1,00,000/- (Rupees One Lakh only) is fixed as initial remuneration to the Hon'ble Judge to be paid by the respondents 1 and 2 herein.

6.If no settlement is arrived at between the parties within a month, papers pertaining to this case may be returned to the Registry, to enable them to list the matter in the first week of March, 2019 before this Court.

7.Call this matter in the first week of March, 2019.'

3.Pursuant to the aforesaid proceedings, Hon'ble former Judge of this Court, who was requested to try and bring about a settlement, conducted proceedings and learned Judge has sent to this Court the terms of settlement that was reached between the parties to the lis under cover of a letter dated 03.03.2019.

4.To be noted, caption says that the settlement was reached between the parties on 03.03.2019 and the settlement terms have been reduced to writing on the same day. It has been duly signed by all the parties to instant OP viz., four petitioners, second respondent and the duly authorised representative of the first respondent company viz., The Chief Executive Officer. To be noted, this Court is informed by all the three learned counsel i.e., Mr.M.L.Ramesh for the petitioners, Mr.P.Raja for the first respondent and Ms.Jayakumari for the second respondent that the aforesaid terms of settlement were signed by all the parties in the presence of one another. To be noted, the terms of settlement has also been countersigned by the learned former Judge to whom the matter was referred.

5.All the three learned counsel, make a request that the aforesaid terms of settlement dated 03.03.2019 may please be recorded and the instant OP may please be disposed on those terms.

6.A perusal of the terms of settlement reveals that paragraph 11 is of utmost importance and the same reads as follows :

'Both parties to the dispute requests the Hon'ble High Court of Madras to modify the Award dated 11.01.2013 and substitute the same with the above terms of settlement dated 03.03.2019 and render justice.'

7.In the light of paragraph 11, the award between the parties will now stand substituted by the terms of settlement.

8.The terms of settlement is recorded and the OP is disposed of in terms of said terms of settlement which shall form part of the order of this Court.

9.This OP is disposed of on above terms. There shall be no order as to costs. Consequently, connected applications are closed.

सत्यमेव जयते

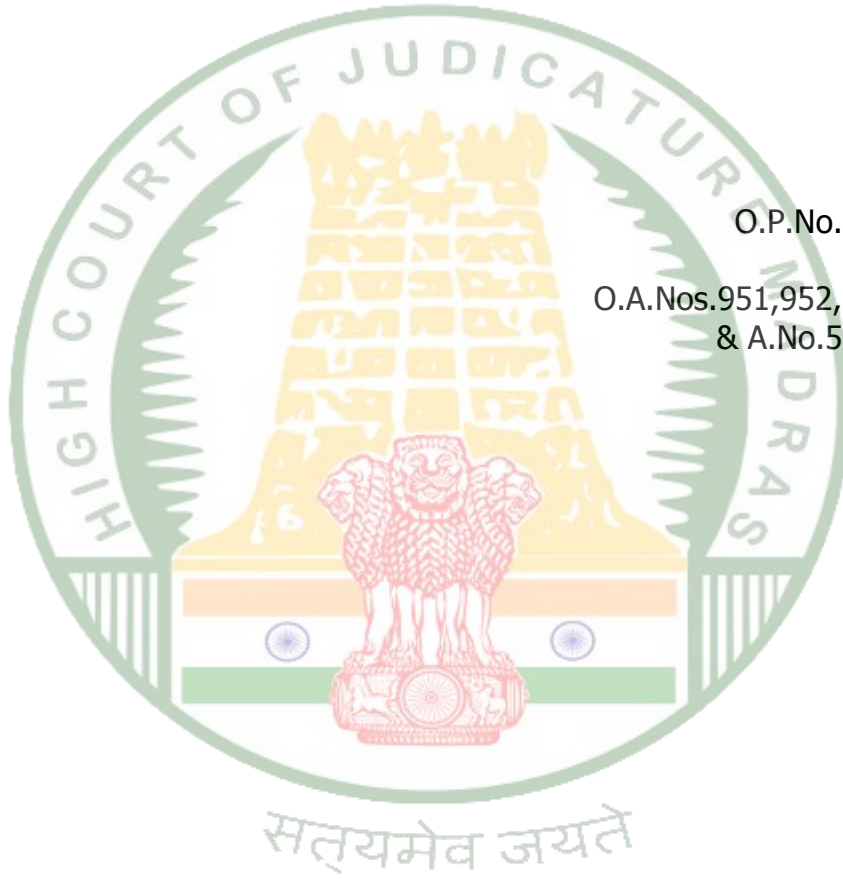
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M.SUNDAR, J.

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